

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

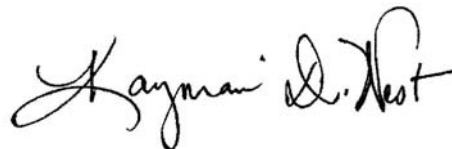
Corey Jawan Robinson, # 294233,)	C/A No. 5:12-502-JMC-KDW
)	
Plaintiff,)	
)	
v.)	
)	
Cpt. T. Clark; Ms. D. Bailey, Classification; Lt. J.)	
Williams; Officer S. Mosher; Sgt. J. Aranda;)	Report and Recommendation
Lolita M. Lee; Sherisse D. Birch; Loretta Aiken;)	
Warden Wayne McCabe; IGC B. J. Thomas;)	
Ofc. J. Middleton; Ofc. Jeremy Johnson;)	
Nurse Luanne Mauney; Nurse J. Scott;)	
Ann Hallman; Ofc. Tabitha Ford; Ms. S. Jones;)	
Cpt. William Brightharp; Major Thierry Nettles;)	
Assoc. Warden Fred Thompson; and)	
Cpt. Ann Sheppard,)	
)	
Defendants.)	
)	

This matter is before the court on Plaintiff’s Motion for Default Judgment “[p]ursuant to Federal Rules of Civil Procedure Rule 55, Rule 54(c), Rule 16(b)(2) and Rule 56” filed on November 19, 2012. ECF No. 155. In support of his motion, Plaintiff contends that Defendant Aiken failed to comply with the court’s order requiring that Defendants file dispositive motions on or before November 9, 2012. *Id.* Plaintiff contends that Defendant Aiken missed this deadline because her motion was filed on November 12, 2012. *Id.* at 2. Plaintiff requests that court enter judgment by default and award him “the relief he requested from Defendants in his Second Amended Complaint.” *Id.* at 2. Defendant Aiken opposes Plaintiff’s motion arguing that default judgment is not a proper remedy for missing court deadlines. ECF No. 158 at 1.

Defendant Aiken also argues that her Motion for Summary Judgment was timely because it was filed on November 9, 2012. *Id.* at 2.

Rule 55(a) of the Federal Rules of Civil Procedure provides that “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Fed. R. Civ. P. 55(a). To the extent that Plaintiff is alleging that Defendant Aiken has failed to properly respond to this court’s order, a default judgment pursuant to Rules 54(c) and 55 of the Federal Rules of Civil Procedure does not provide the appropriate remedy.¹ Further, Plaintiff has failed to set forth any ground sufficient for an entry of default as parties are not required to file motions for summary judgment; however, Defendant Aiken’s Motion for Summary Judgment was timely filed. *See* ECF Nos. 122, 148. Based on the foregoing, it is recommended that the Plaintiff’s Motion for Default, ECF No. 155, be DENIED.

IT IS SO RECOMMENDED.

A handwritten signature in black ink, appearing to read "Kaymani D. West". The signature is fluid and cursive, with the first name "Kaymani" being more prominent than the last name "West".

January 24, 2013
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge

¹ Rule 54(c) refers to the type of relief entitled from a default judgment and Rule 55 addresses entry of default judgment for a party’s failure to plead or otherwise defend a judgment for affirmative relief. *See* Fed. R. Civ. P. 54 and 55.